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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,288	07/03/2003	John Cummings	64730.13	4004
23573	7590	04/05/2006	EXAMINER	
HOLLAND & KNIGHT, LLP ONE EAST BROWARD BLVD. SUITE 1300 FT LAUDERDALE, FL 33301			TRAN, HANH VAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/613,288	Applicant(s) CUMMINGS, JOHN	
	Examiner Hanh V. Tran	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-14 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-9 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 1/5/2006.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, 7, and 9 stand rejected under 35 U.S.C. 102(b) as being anticipated by USP 1,645,470 to Alheit.

Alheit discloses a display case comprising all the elements recited in the above listed claims including, such as shown in Fig 1, a first section including a top wall, a bottom wall and a back wall connected between said top and bottom walls, said bottom wall being formed with a bracket having a first arm 9 and a second arm 6 connected to said first arm, a space being formed between said bottom wall and said second arm 6 which is adapted to receive a shelf; a second section including a first side wall, a second side wall and a front wall connected between said first and second side walls, said second section being joined with said first section so that said first and second side walls of said second section abut said back wall of said first section and said top and bottom walls of said first section contact said front wall and said first and second side walls of said second section to form a closed interior (see attached marked-up copy), a mounting device insertable through said second arm 6 of said first section, said

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mounting device being adapted to contact a shelf received within said space between said bottom wall and said second arm to secure said first and second sections to the shelf; wherein said second arm of said bracket is substantially parallel to said bottom wall, said mounting device is a thumb screw which extends through said second arm of said bracket and is adapted to engage the bottom of a shelf, at least said first and second side wall, said top wall and said front wall are formed of a transparent material to permit viewing of said closed interior.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 2-3, 5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Alheit in view of USP 4,002,287 to Saveth.

Alheit discloses all the elements as discussed above except for (1) the top wall, the bottom wall and the back wall of the first section are permanently interconnected to

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form a one-piece structure, (2) the first side wall, the second side wall and the front wall of the second section are permanently interconnected to form a one-piece structure, (3) said top wall of the first section being formed with an upper lip extending toward the bottom wall and said bottom wall of the first section being formed with a lower lip extending toward and in alignment with the upper lip, the front wall of the second section contacting the upper lip of the top wall and the lower lip of the bottom wall to maintain the first and second sections in engagement with one another.

Saveth teaches the idea of forming a case comprising, such as shown in Figs 9-10, (1) a first section having the top wall, the bottom wall and the back wall being permanently interconnected to form a one-piece structure, (2) a second section having the first side wall, the second side wall and the front wall being permanently interconnected to form a one-piece structure, (3) said top wall of the first section being formed with an upper lip extending toward the bottom wall and said bottom wall of the first section being formed with a lower lip extending toward and in alignment with the upper lip, the front wall of the second section contacting the upper lip of the top wall and the lower lip of the bottom wall to maintain the first and second sections in engagement with one another; wherein the structure allows easy forming of a case without fasteners. Therefore, it would have been obvious to modify the structure of Alheit by having (1) the top wall, the bottom wall and the back wall of the first section being permanently interconnected to form a one-piece structure, (2) the first side wall, the second side wall and the front wall of the second section being permanently interconnected to form a one-piece structure, (3) said top wall of the first section being formed with an upper lip

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extending toward the bottom wall and said bottom wall of the first section being formed with a lower lip extending toward and in alignment with the upper lip, the front wall of the second section contacting the upper lip of the top wall and the lower lip of the bottom wall to maintain the first and second sections in engagement with one another in order to allow easy forming of a case without fasteners, as taught by Saveth, since both teach alternate conventional casing structure, used for the same intended purpose of storing article, thereby providing structure as claimed.

7. Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Alheit in view of US2003/0057809 to House, II et al.

Alheit discloses all the elements as discussed above except for a mirror is mounted to the back wall of the first section.

House, II et al teaches that it is well known in the art to provide a display case with mirror in the interior in order to present the article housed therein from various angles. Therefore, it would have been obvious to modify the structure of Alheit by having a mirror mounted to the back wall of the first section in order to present article housed therein from various angles, as taught by House, II et al, since both teach alternate conventional display case structure, used for the same intended purpose of displaying articles therein, thereby providing structure as claimed.

Allowable Subject Matter

8. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 10-14 are allowed.

Response to Arguments

10. Applicant's arguments filed 1/5/2006 have been fully considered but they are not persuasive. In response to applicant's argument on page 2 that "each of the first and second sections is formed as a one-piece structure", the examine takes the position that the claimed language fails to claimed a one-piece structure, the claimed language recited "permanently interconnected to form a one-piece structure".

11. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the bottom wall of the first section is integrally formed with a bracket) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

12. In response to applicant's argument regarding claim 8, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT *HVT*
April 3, 2006

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600



Oct. 11, 1927.

H. A. ALHEIT

1,645,470

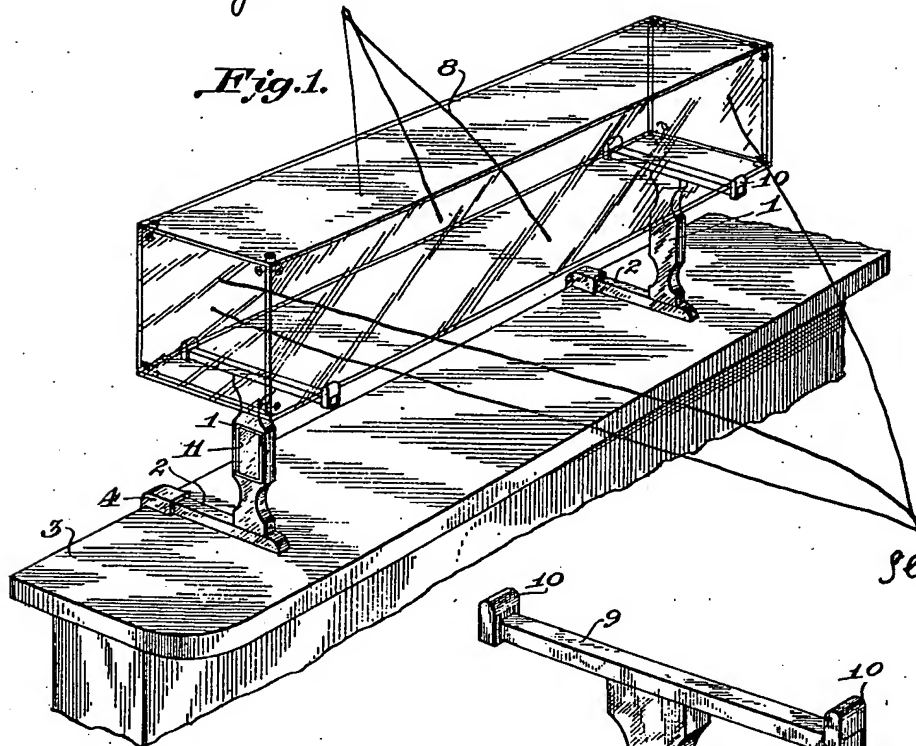
STORE FURNITURE

Filed Aug. 31 1926

2 Sheets-Sheet 1

first section

Fig.1.



second section

Fig. 2.

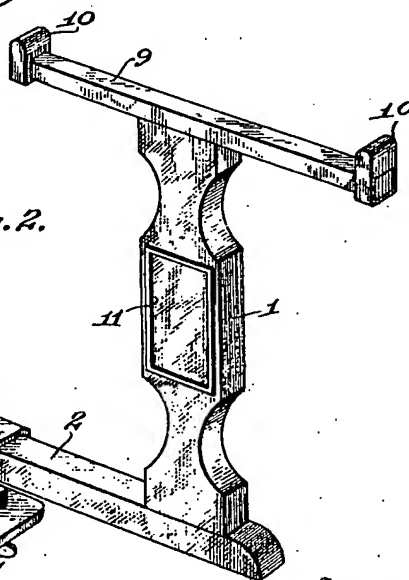
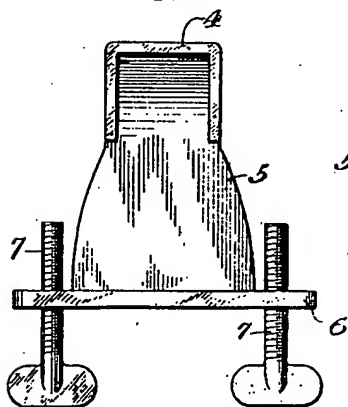


Fig. 3.



Inventor

Henry A. Alheit.

By *William C. Linton*

Attorney